

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SHARIF KING,

Plaintiff,

-against-

CORRECTION OFFICER O. MILLER,

Defendant.

22-CV-3336 (LTS)

ORDER DENYING IFP APPLICATION

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is incarcerated in Five Points Correctional Facility, brings this *pro se* action, seeking to proceed *in forma pauperis* (IFP), that is, without prepayment of the filing fees. To proceed with a civil action in this court, a prisoner must either pay \$402.00 in fees – a \$350.00 filing fee plus a \$52.00 administrative fee – or, submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915. Plaintiff submitted a completed IFP application and prisoner authorization with his complaint. Based upon the information that Plaintiff has provided and a review of the Public Access to Court Electronic Records (PACER) system, the Court denies Plaintiff's request to proceed IFP and grants Plaintiff 30 days to pay the \$402.00 in fees.

**DISCUSSION**

In the IFP application that Plaintiff filed in this case, he indicated that he received a \$17,500 settlement in *King v. White*, ECF 1:20-CV-4527, 95 (S.D.N.Y. Dec. 20, 2021), but that he does not have access to those funds “due to fraud by agent.” (ECF No. 1 at 1.) He further indicated that there is a pending action in the United States District Court of the Eastern District of New York, pertaining to the alleged fraud, and a review of the PACER system reveals that Plaintiff filed that action in the Eastern District of New York on March 21, 2022, one month before Plaintiff filed this action. *See King v. Ruffin*, No. 22-CV-1596 (AMD) (RML) (E.D.N.Y. Apr. 27). In that action,

by order dated March 28, 2022, the Honorable Ann M. Donnelly denied Plaintiff's request to proceed IFP because Plaintiff's IFP application in that case indicated that he received \$19,700 from a business or from self-employment, \$75,500 from a court settlement, and \$1,400 in federal stimulus money. (*Id.* at ECF No. 5.) In that application, Plaintiff also indicated that he has two bank accounts that he cannot access, and that he gives his family approximately \$1,050 each month for support. (*Id.*) Based on the information that Plaintiff provided to the Eastern District of New York, that court denied Plaintiff's request to proceed IFP and granted Plaintiff 30 days to pay the \$402.00 filing fees. (*Id.*) By letter received in the Eastern District on April 25, 2022, Plaintiff requested to voluntarily withdraw his complaint. (*Id.* at ECF No. 6.)

In an action that Plaintiff filed in this court on March 25, 2022, *see King v. King*, ECF 1:22-CV-2479, 2, the Court, by order dated April 7, 2022, granted Plaintiff's IFP application, because in that application, he indicated that the \$17,500 settlement was stolen, and that he had no other source of income. *See* ECF 1:22-CV-2479, 1. Plaintiff has provided inconsistent financial information to this court and to the Eastern District of New York with respect to cases he filed on March 21, March 25, and April 22, 2022. It would appear that from the settlement that Plaintiff received before he filed these actions, that he has sufficient assets to pay the \$402.00 filing fees to file this action.

## **CONCLUSION**

Leave to proceed in this court without prepayment of fees is therefore denied because Plaintiff has sufficient assets to pay the fees. *See* 28 U.S.C. § 1915(a)(1). Plaintiff is directed to pay

\$402.00 in fees within 30 days of the date of this order.<sup>1</sup> If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: June 6, 2022  
New York, New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge

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<sup>1</sup> Payment of the filing fees must be made by certified check or money order, payable to: Clerk of Court – SDNY, and can be mailed to: Cashiers Unit – Room 260, 500 Pearl Street, New York, NY 10007. Any certified check or money order must include Plaintiff's case number, 22-CV-3336 (LTS). Payment can also be made by major credit card or cash (only if the payment is made in person). Personal checks are not accepted.